

## **REMARKS/ARGUMENTS**

### ***Status of the Claims***

Upon entry of the present amendment, Claims 1 and 3 are amended, Claims 19-30 and 33-74 are canceled, and new Claims 78-84 are added.

Claim 1 has been amended in accordance with the Examiner's suggestion to recite "an isolated nucleic acid encoding an ATP-binding cassette (ABC) family sterol transporter," and to incorporate the language of previously presented Claim 9. Support for the amendments to Claim 1 are found, for example, on page 3, lines 1-2 and on page 25, lines 5-8.

Claim 2 has been amended to remove reference to SEQ ID NOs 5 and 6.

New claims 78 and 79 have been added to recite amino acid sequences sharing at least 80% and 85% identity, respectively, with SEQ ID NO:3. Support is found, for example, on page 12, lines 30-33 and on page 21, lines 20-25.

New claims 80-82 have been added to recite nucleic acid sequences sharing at least 85%, 90% and 95% identity, respectively, with SEQ ID NO:4. Support is found for example, on page 21, lines 20-25.

New claims 83-84 have been added to place Claims 3 and 11 in independent form.

### ***Objection***

The Examiner objected to Claim 2 for reciting SEQ ID NOs: 5 and 6. Applicants have obviated this objection by eliminating the recitation of SEQ ID NOs: 5 and 6 from Claim 2.

### ***Rejection under 35 U.S.C. § 112, first paragraph, enablement requirement***

Claims 1-8, 10, 13-15, 17, 18, 31, 32, 76 and 77 were rejected under Section 112, first paragraph for allegedly failing to comply with the enablement requirement. Claims 9 and 11 were not included in this rejection. Claim 9 depends from, and therefore includes all the limitations of Claims 1 and 8.

Applicants have obviated this rejection by amending independent Claim 1 to recite the language of Claim 9. The remaining pending claims, 2-7, 10-11, 13-15, 17-18, 31-32, 76-82, although of a patentably distinct scope from Claim 1, directly or indirectly depend from Claim 1 and therefore include all of the language recited in independent Claim 1.

In view of the foregoing, the Examiner is respectfully requested to withdraw this rejection.

***Rejection under 35 U.S.C. § 112, first paragraph, written description requirement***

Claims 1-11, 13-15, 17, 18, 31, 32, 76 and 77 were rejected under Section 112, first paragraph for allegedly failing to meet the written description requirement.

In accordance with the Examiner's suggestion, Applicants have amended independent Claim 1 to recite "an isolated nucleic acid encoding an ATP-binding cassette (ABC) family sterol transporter polypeptide." In view of this amendment, the Examiner is respectfully requested to withdraw this amendment.

Appl. No. 09/837,992  
Amdt. dated October 18, 2004  
Reply to Office Action of June 16, 2004

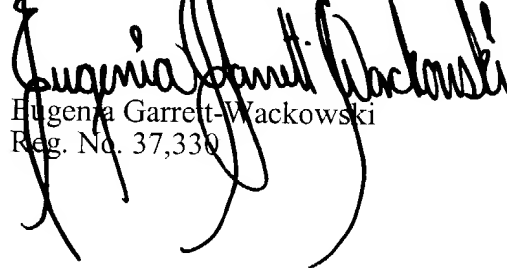
PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Eugenia Garrett-Wackowski  
Reg. No. 37,330

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 925-472-5000  
Fax: 415-576-0300  
Attachments  
EGW:lls  
60263330 v2